APPENDIX

Excerpts from Transcript of Original Testimony before the Interstate Commerce Commission [1]

2032 Before the Interstate Commerce Commission

I. & S. Docket No. 4394

In the Matter of Passenger Fares of Hudson & Manhattan Railroad Company

Anteroom B,
Interstate Commerce Commission Bldg.,
Washington, D. C., Tuesday, September 28, 1943.

Met, pursuant to notice, at 10 o'clock a. m.

Before Irving L. Koch, Examiner.

Appearances: John E. Buck, Vice President and General Counsel, Hudson & Manhattan Railroad Company, 30 Church Street. Thomas A. Halleran, of Cravath, deGersdorff, Swaine & Wood, 15 Broad Street, New York City, appearing for Hudson & Manhattan Railroad Company. John F. Finerty, 120 Broadway, New York City, appearing for Hudson & Manhattan Railroad Company. Charles Hershenstein, Counsel to the Mayor, Jersey City, New Jersey. S. S. Eisen, 140 Cedar Street, New York City, appearing for all New Jersey protestants. Harry R. Booth, Federal Office Building No. 1, OPA, Washington, D. C., appearing for Economic Stabilization Director and Price Administrator.

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2034 Exam. Koch. So that there may be no misunderstanding as to the scope of this further hearing, I wish to make the following statement:

The order of the Commission of September 18, 1943, which reopened this proceeding provides, and I am now quoting:

"That this proceeding be reopened for further hearing to permit any party hereto to present evidence directed solely

[1] Obvious errors in the transcript are indicated herein by brackets and corrections are interpolated in italics.

to the propriety and lawfulness of the modifications made by the Commission in its report of August 3, 1943, on further consideration of its prior findings and orders of July 11, 1938, and June 8, 1943;"

That wording is plain that the evidence at this further hearing must be directed solely to the propriety and lawfulness of such modifications as were made in the prior findings of the report of August 3.

Those modifications were from a finding that a
2035 nine-cent downtown fare had been justified, as made in the report of June 8, to a finding as made on August 3, that an alternative downtown fare of 11 tokens for $1 or a cash fare of a dime had been justified with the proviso that contemporaneously the same alternative basis shall be maintained on the uptown line.

In every other respect the prior findings of June 8 were affirmed.

Therefore, this further hearing under the Commission's order is restricted to evidence bearing upon the issue of whether or not those modifications in the prior finding, which had approved the downtown fare of 9 cents, shall stand.

We are not here retrying the lawfulness of the present 9-cent fare.

Mr. FINERTY. Or, I understand, Mr. Examiner, the present prescribed 9-cent fare.

Exam. KOCH. We are trying only whether or not there shall be a modification of the June 8 finding, as made in the August 3 report.

Mr. FINERTY. That is from nine to nine and eleven, and from nine to ten.

Exam. KOCH. Or something else.

Mr. FINERTY. Yes.

Mr. BOOTH. May I state for the record our exception to the ruling of the Examiner and of the Commission, if
2036 it is the ruling of the Commission, in limiting the scope of this hearing? We propose to test the exact nature of the limitation in the course of the proceeding, and in relation to specific evidence which may be offered or which may be requested.

Exam. KOCH. Very well. The record will show your exception.

Mr. EISEN. May I determine, please, whether or not the parties of this proceeding will be precluded from bringing

the record down to date insofar as it is stale and such procedure would preclude any finding with respect to revenues?

Exam. Koch. If that has a bearing upon the issue as I have described it, it will be permitted. We will see when we get to it the particular evidence that you have in mind.

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2069 Exam. Koch. We are not trying the 8-cent fare.

Mr. Eisen. I am not talking about the 8-cent fare.

Mr. Finerty. We are not trying the 9-cent fare.

Mr. Eisen. I am trying to develop whether this company needs revenues in excess of that to be produced by a 9-cent fare, and I think that is directly in issue. If any-

2070 thing in excess of 9 cents is not to be predicated on revenue needs, then I would like to inquire upon what ground this case has been reopened.

Mr. Finerty. Mr. Examiner, may I answer that?

Our petition expressly predicated it on one fact only. We did not question the revenue of the Commission accorded us on the 9-cent fare, and we do not question it now. We have questioned our ability physically to collect the 9-cent fare, and get the revenue the Commission estimated we would get.

Mr. Brown's statement here is that with a 9 1/11th-cent fare for token use and a 10-cent cash fare will earn $81,000 less than the Commission's revenues estimated under the 9-cent fare.

I would be very glad, and I will ask Mr. Fritsch to show what that will be with a 5-percent diversion. It is obvious to me that it will still be, while not $81,000 less, it will still be less than the revenues which the Commission estimated.

We are not here and we are not prepared to try whether we need a 9 1/11th-cent fare to get the revenues the Commission has awarded.

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Cross-examination of Walter F. Brown, Chairman of the Board, and President of the Hudson & Manhattan Railroad Company

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2106 By Mr. Eisen:

Q. Now, was it not your position, Mr. Brown, that an increase in current divisions could only be obtained or sought if there were in effect a 10-cent fare?

A. No; I have never said that, but I have said that I thought we would be in a much stronger position to go to the Pennsylvania if we—if our local fare was substantially in excess of the present division that they were giving us, that there was reason for their being—for comparing the division with the local fare, and by that I don't mean that the local fares should be the maximum of the division by any means, but when the local fare is very much below the division I think we are not in very good shape.

2107 Q. Am I correct, then, in stating that it was not and is not your position that in your opinion 8.64 reflects the proper division on uptown traffic in the light of a 10-cent local fare, and that in order to obtain anything additional to 7.64 as a division on the downtown local fare that you would need a fare of 10 cents?

A. No, no; but I do think that the time to go to the Pennsylvania for increased divisions is when we get our own fares substantially where we think it ought ultimately to be.

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2108 Examiner [LAW] *Koch*. Mr. Brown, what is the present situation with respect to this divisional matter?

The WITNESS. Well, there has been no change in the division matter.

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2110 Mr. FINERTY. What I want to make clear is that this preliminary, tentative agreement has nothing to do with any basic change in the measure of divisions, but in asking this preliminary change in the method of accounting for divisions, you put the Pennsylvania Railroad on notice that you would subsequently take up with them the matter of increased divisions.

The WITNESS. Oh, yes, sir; and have outlined it, our theory of the whole matter.

Mr. FINERTY. But that matter was not approached—it is not beyond this preliminary step that is necessary if the tokens or alternative tokens and dime fare go into effect.

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2111 Examiner [LAW] *Koch*. Mr. Brown, you had notified the Pennsylvania officials that you were expecting an increase in divisions?

The WITNESS. Yes, sir; and I specifically called their attention to the Commission's order and sent it to them.

Examiner [LAW] *Koch*. And you do expect if this alternative fare basis goes in, to have an increase in divisions?

The WITNESS. Well, I feel very confident that there will be an increase. If we can't agree, we shall try, of course, to agree with the Pennsylvania. If we can't agree I can see no alternative but to come to the Commission with it.

Exam. [LAW] *Koch*. But you expect to get an increase in those divisions?

The WITNESS. Yes, sir.

By Mr. EISEN:

Q. Do you expect an increase in the uptown divisions in the face of your proposed 9-cent fare uptown?

A. Yes, sir.

Q. Now, on page 1125 of the transcript, Mr. Brown, you said this:

2112 "Yes, sir, as will be later shown, petitioner is of the opinion that until this Commission authorizes a 10-cent fare on its downtown line, a serious obstacle will exist to obtaining any increase in the divisions with the Pennsylvania Railroad on the joint service between Newark and Hudson Terminal."

Now, would you say that the existence of a 9.1-cent fare will continue to impose a serious obstacle to obtaining any increase on your divisions in the downtown line?

A. I would say that the nearer we get to the 10 cents the easier it ought to be to work out something with the Pennsylvania, but I don't think it will be easy in any event.

Q. Now, on the uptown line: Do you think that the reduction in your local fare will result in a reduction of the uptown division?

A. No.

Q. Then the 10-cent figure will not have any bearing on or effect upon the divisional arrangement subsequently effected or that was effected in the past?

A. When I answered that question, my mind was focused on the straight 10-cent fare, and I was thinking of that.

Q. Well, you were giving reasons to justify the 10-cent fare.

A. I was thinking about the 10-cent fare, and had
2113 already dismissed from my mind any 9-cent fares because of the points that had been made.

That was authorized by Ex Parte 148 and we were thinking only of 10-cent fares.

Now we have a 9- and 11-cent fare and we perhaps stand, possibly, I hope for more of dimes than 10 percent.

Now, that creates another situation. If the Commission has directed us to take it up with the Pennsylvania and we have started to do it and we are going to do the very best job we can. If we fail we are going to come to the Commission and ask for an order.

Q. Now, have you negotiated with the Pennsylvania Railroad in June, when the Commission issued its decision authorizing a 9-cent fare on the downtown line or when thereafter did you commence negotiations?

A. When we got the decision of the 9-cent fare we all went to work at once to see how we could collect it, and our difficulty was in collecting it and we gave that our undivided attention, and after we came back to the Commission with our token solution of the problem, then I took up with the Pennsylvania the question of divisions but we did not, any of us, have any time to do anything until we were presented with a 9-cent fare that we could not collect.

2114 Q. You consider it more important to get the increase from the downtown patron than any revenue from the Pennsylvania Railroad, didn't you?

A. No, that isn't so. We had not, but first things have to be done first.

Q. And you considered it more important than the downtown increase in fares?

A. No, I didn't consider it more important but I considered it essential we get that matter straightened out because we could not collect the 9-cent fare in cash.

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By Mr. Booth:

2123 Q. Mr. Brown, you stated you had been associated with this company for a period of some ten or eleven years.

A. Yes, sir; I came to the company the 15th of March 1933.

Q. Did you during this period, or—could you sell any tokens as part of its fare structure during that period?

A. Never.

* * * * *

2123 Q. Well, during none of that time, Mr. Brown, were you associated with the development of a fare structure for a local transportation company, which included
2124 tokens, is that correct?

A. Well, I was counsel for the Toledo County Traction Company for a good many years. They did not use tokens but I was very familiar with the whole fare operation on streetcars.

Q. Well, while you were counsel for the company, it was part of your duty to assist the management of the company in the development of a fare structure?

A. Well, we had controversies over franchises and fares, of various kinds; yes, sir.

Q. Well, did you participate in the development of a fare structure, Mr. Brown?

A. Well, I—yes, sir; I was associated with the man in the company that had direct charge of that feature of the work.

Q. But the company did not sell any tokens while you were there?

A. They never sold any tokens, no.

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2125 Q. Now, Mr. Brown, at the time you prepared this affidavit, annexed to your petition of June 8, I believe you stated that you had gone into this question of token fares with your associates?

A. Yes, sir; we considered it very carefully.

Q. And did you at that time— You stated you considered it carefully, among yourselves, is that correct?

A. Yes, sir, very.

Q. That is, you discussed it with whom?

A. And with our—with some of our directors who have had experience in the utility field.

Q. And did you have a written report submitted to you on this question prior to July?

A. A written report?

Q. Yes, sir.

A. Well, I don't remember any written report.

Q. You saw none—you had none?

2126 A. You see, we have interoffice memoranda that go back and forth. Sometimes I ask some of our people to send in memoranda and sometimes I do it myself.

Q. This is based very largely upon conversations and analyses that were made and, as a result of that you arrived at this common-sense judgment that you referred to previously that——

A. Well, we discussed the matter with representatives of the American Transit Association, that is an association

composed of various utilities, practically all of those in the country, many of those using tokens.

Q. Yes, sir; but Mr. Brown, as of July 8th, you had no written reports that were prepared for you dealing expressly with the problem of the token fare structure to be presented to the Interstate Commerce Commission for its consideration in connection with this affidavit of July 8th?

A. Well, we had a lot of information from various sources, with the experience they had had with tokens at various times, and sold at different prices under different conditions in different parts of the country.

Mr. FINERTY. Well, I think, Mr. Brown, what Mr. Booth is shooting at, did you have any OPA questionnaires or anything like that?

Mr. Booth. No. I move that be stricken from the record.

Exam. [LAW] *Koch*. Take it off.

2127 Mr. BOOTH. I ask that I be permitted to examine the witness, to develop some facts on this question.

Exam. [LAW] *Koch*. Go ahead.

Mr. BOOTH. Which we consider to be very material.

By Mr. BOOTH:

Q. Now, who did you discuss the matter with in the American Transit Association? Mr. Gordon?

A. Let me see. It seems to me it was Mr. Gordon. Who was—what is the name of the head man in the Transit Commission?

Mr. FINERTY: Mr. Hecker?

The WITNESS: Mr. Hecker was the man.

By Mr. BOOTH:

Q. Who is Mr. Hecker?

A. I think he is the managing director of the thing. He and another man both came down to see me.

Q. What was the other man's name, Stevenson?

A. No, it was not Stevenson.

Q. They came over to you and talked to you about the matter?

A. First Mr. Van Geison went up to see them in New York and had a long talk with them and got some information and then they came down to see me and brought down a lot of data, material that they had collected.

Q. Did you consult the Interstate Commerce Commission before you prepared this affidavit?

A. Well, I don't know just what you mean by that.

2128 Q. Well, does the Interstate Commerce Commission have any local transportation experts or people who might be experts in the development of token fare structures?

A. Why, I did not ask any advice from them.

Q. You did not?

A. No.

Q. The American Transit Association is an association of local transportation companies in this country, is that correct?

A. I think so, yes, sir.

Q. And now may I direct your attention to this volume which I told in my hand, which is headed, "American Transit Association, Affiliated Organizations, Proceedings, 1937." Have you seen this volume?

A. No, I have never seen it.

Q. Have any of the men called your attention to it, with whom you became or were associated in connection with this problem?

A. No; I do not believe I ever heard of it.

Q. All right. Did you examine this report? I refer you specifically to page 928 of the 1937 proceedings, the Report of the Committee on Fare Structures, and ask you whether you read that report?

A. I told you I have never seen the book.

2129 Q. Well, it might be that you have seen this report, Mr. Brown.

A. No; I have never seen the report.

Q. You have never seen the Report of the Committee on Fare Structures for 1937 of the American Transit Association?

A. Well, I don't think so.

Q. All right. Well, you can look at it.

A. Yes, sir.

Q. And I will ask you whether you have read it.

A. Of course, the Commission—the Transit Association sent me quite a lot of printed material.

Q. Well, now, just look at that——

A. I undertook to go through it but they did not send me any book like this.

Q. Well, let me ask you whether you have seen this report under any other form?

A. Well, I would say that some of the points that are made here, Mr. Hecker and his associates made with me in speaking of the analysis of factors affecting riding habits and things of that kind.

Q. Well, did you read that report, Mr. Brown?

A. No, I don't think I have ever read the report.

Q. I would like to have marked for identification, if
2130 the Examiner please this document, as Exhibit [F–42] *F–142* which is a copy—an exact copy of the Report of the Committee on Fare Structures, and which is taken from this volume.

A. That is in the year 1937.

Mr. EISEN. Is that volume a public document, Mr. Booth?

Mr. BOOTH. Yes, sir; the original volume is to be found in the Library of the Interstate Commerce Commission.

Mr. FINERTY. Mr. Booth, I have no objection to your asking Mr. Brown to say whether he has ever seen this report or not and he says he has not, but if the purpose of identification is to show he has not seen something I think it unnecessary.

Mr. BOOTH. Well, I will call a witness to identify this report. This is a report which deals with the use of tokens, token fares, and I should think that perhaps the Commission might like to have it in this record, of the American Transit Association.

Exam. [LAW] *Koch*. What is the purpose you have in mind?

Mr. BOOTH. It is to be used to give the Commission facts on the question of the probable use of purchase of tokens in connection with the order of August 3. It bears directly upon the affidavit made by Mr. Brown, and upon the acceptance by the Commission of Mr. Brown's affidavit.

Exam. [LAW] *Koch*. Then your purpose is that this shall shall have a bearing upon the feasibility of the use of tokens?

2131 Mr. BOOTH. Yes, sir, and certainly in this case.

Exam. [LAW] *Koch*. All right.

Mr. FINERTY. Now, as I understand you——

Mr. BOOTH. Well, the feasibility of use and the extent to which it would be used. Primarily the extent to which tokens would be purchased under the order of August 3, and the affidavit made by Mr. Brown, which was the basis upon which the Commission entered its order.

Exam. [LAW] *Koch*. And this will have a bearing upon the 9–10 ratio.

Mr. BOOTH. Very much so, in my judgment it is an exceedingly authoritative statement on that point.

Mr. FINERTY. Now, Mr. Examiner, if you desire to receive this, I merely want to record a formal objection to what is perfectly apparent, that it is absolutely inadmissible.

I want to examine Mr. Brown voir dire, and ask him if the H. & M. is a member of the American Transit Association?

The WITNESS. No.

Mr. FINERTY. Was it a member in 1937 of that Association?

The WITNESS. No.

Mr. FINERTY. I want to call your attention, Mr.
2132 Examiner, to the fact that the H. & M. Railway Company is not mentioned in the report; that none of the statistics in the report deal with the Hudson & Manhattan Railroad Company, and certainly none of them deal with traffic conditions between Jersey City and Manhattan.

If you want to accept— We have no desire to keep you from anything that might be informative, Mr. Examiner. If you desire under those circumstances to accept the Exhibit, I think its value will be destroyed on redirect examination, as far as this case is concerned, but if you desire to accept it I will be very glad to make a formal objection.

Examiner [LAW] *Koch*. Of course technically this is cross-examination, and you are making Mr. Brown your own witness now if you are going to take this in.

Mr. FINERTY. Certainly.

Mr. BOOTH. I am going to present this, and have it sponsored by a witness of my own. It is merely being identified at this time and I merely asked Mr. Brown whether he had read or had examined it.

Mr. FINERTY. If that is the only purpose at this time, Mr. Brown has answered he has not and the document has not been offered so I take it.——

Mr. BOOTH. I assume you will have ample time.

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2160 Q. Mr. Brown, assuming it to be true that the report of the Committee on Fare Structures that I have referred you to and had marked as Exhibit F–142 for identification, show that with a token investment of a dollar, which would purchase 11 tokens, with a differential of 10 percent between the cash fare and the token fare, that the average use of tokens under those circumstances would be about 34

percent, that that was true in the case of your company, would you make more or less money than you have shown in your affidavit to the Commission?

Mr. FINERTY. Will you read that question, please?

Exam. KOCH. Off the record.

(Discussion off the record.)

Exam. KOCH. On the record.

Mr. BOOTH. You are instructing the witness not to reply?

Exam. KOCH. Yes.

2161 Mr. FINERTY. He is sustaining my objection on the grounds that the answer is self evident.

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2071 By Mr. EISEN:

Q. Now, Mr. Brown, your figure, as I understand it, of $81,450 less under the alternative basis, and the

2072 figure of $455,696 additional revenue that you would receive on the downtown line under the alternative basis, is predicated upon a 90 percent usage of the token; is that right?

A. Yes.

Q. Now, will you please tell us how you arrived at that 90 percent figure?

A. Well, by discussing it with transportation men, and from our own observations of the character of traffic we have, we assume—I think we have reason to justify it, that 90 percent of our patrons are regular patrons that are commuters, 90 percent are regular people, and they are people who are able to buy a dollar's worth of tokens. They are thrifty, careful people who travel back and forth every day, and we assumed that, and still believe that that is a sound figure.

Q. Have you made any investigations of the usage of tokens by other transportation facilities?

A. Yes. We have made quite—we have acquired some information about it, but we do not find any other company that is situated just as ours is.

Q. Do you find any other company that uses tokens any place in the country that can report anything like 90 percent?

A. Well, we don't find any that is situated like ours at all or that sells them in that way.

2073 Q. Do you find any that will report as high as 50 percent?

A. Oh, yes.

Q. Can you give us reference to one or two, please?

A. No; I can't now, but I discussed the matter very fully with representatives of the American Transit Association. we believe that the 10 and 90 percent is a sound figure.

Q. You believe that 100 percent of your regular patrons will buy tokens?

A. Yes.

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2144 By Mr. BOOTH:

Q. Well, Mr. Brown, when you testified in the earlier stages of this case, you asked the Commission to approve an annual charge of approximately $240,000 which was intended to represent a War Damage Reserve, or War Contingency Reserve, is that correct?

A. Well, I stated——

Mr. FINERTY. Mr. Examiner, I am going to object. This is going to the question of the basic report.

Exam. KOCH. Does this change you propose to make in fares here make any difference in that?

The WITNESS. No, sir; it is not a matter there should be any mystery about.

2145 Mr. FINERTY. Isn't that——

By Exam. KOCH:

Q. Does it make any difference at all whether the 9 cent fare is in effect or 8 cent fare?

A. Would not make any difference at all.

Exam. KOCH. Objection sustained.

Mr. BOOTH. May I make a statement then, and ask the Examiner to present it to the Commission, the request of the Office of Economic Stabilization and the Office of Price Administration, whom I represent in this proceeding?

We [ask] *asked* the Commission, in our reply to the company's petition for reconsideration of July 8, to reconsider its previous modification of the original order in this case, and to consider the return of the petitioner's downtown fares to the original level of 8 cents.

By the Commission's order of August 3, this Commission has authorized the company to increase its fares to a very substantial number of its users, 25 percent, as contrasted with the fares in existence on September 15, 1942.

I refer to that date because under the Act of Congress, by the Act of October 2, which is a further Act by Congress for the purpose of stabilizing prices and the cost of living necessary for the successful prosecution of the war, Congress in-

tended that all prices, including utility and common carrier rates, be stabilized in so far as practicable on that date.

2146 We feel that it has not been shown in this record that the increase is necessary, the increase of any kind from a revenue point of view, considering the company's rights, either in view of the economic conditions or under the Interstate Commerce Act.

The record in this case was closed over a year ago. It was closed on September 19. There has been a change in the company's [output] *operation*——

Mr. FINERTY. That is not correct, that it was closed September 19. The record was reopened to receive statistics and up to and including December 31, and oral argument thereafter.

Mr. BOOTH. Well, there was a very short table put into the record.

Mr. FINERTY. Everything you asked was put in.

Mr. EISEN. Everything I asked.

Mr. BOOTH. May I proceed with my statement without interruption by counsel for the company?

We think there has been a change in circumstances affecting the operations of the company, affecting their right to an increase in fares over and above the fares in effect on September 15, 1942.

I indicated this morning that I was excepting to the ruling of the Commission limiting the purposes for which this

2147 reopened proceeding was being held, and one of the things that I would like to go into is the necessity of the company's annual charge for $240,000 for War Damage Reserve. We would show——

Exam. KOCH. Just a minute.

Mr. BOOTH. If we were permitted to show——

Exam. KOCH. Just a minute. Of course if that were reopened as far as you want that to be reopened, the Commission would have to modify its order.

Mr. BOOTH. That is right.

Exam. KOCH. Before that could be done you would have to file a petition asking therefor.

Mr. BOOTH. We propose to submit it in writing.

Exam. KOCH. You can submit that at the time you file your brief in response to this hearing.

Mr. EISEN. May I suggest, Mr. Examiner, that the Commission's report of August 3 specifically refers to the [$230,000] *$240,000* a year War Contingency Reserve?

Exam. KOCH. That has to do only with respect to the six months limitation after the war. It was referred to for another reason.

Mr. BOOTH. We don't know why the reason referred to in its order——

Exam. KOCH. I am just telling you why it was put in the report. Now, I don't know what was in the mind of the Commission.

2148 Mr. EISEN. Mr. Examiner, may I also suggest in connection with this point that that figure of $240,000 has to do materially with the Hudson & Manhattan's operating costs or alleged operating costs, and the operating costs go directly to the revenue, and the revenue goes directly to the justification for any rate that would result from this proceeding.

Exam. KOCH. No. Now, if that is true, the whole case is opened. Of course, that must be admitted. And the whole case is not opened. What is the purpose of the words "solely" and "modify" in the order of September 15 if that is true? It isn't just so. Therefore, the Examiner must rule that such evidence will not be received here.

Now, if you want to file a petition asking the Commission to reopen it all the way, that is your privilege.

Mr. EISEN. I am not talking about reopening; I am talking about the 9-cent fare and the 9.1- and the 10-cent fare. It seems to me the Commission would have to make some findings in connection with the prescription of a 9.1- or 10-cent fare in connection herewith. Now, if we can establish——

Mr. FINERTY. That evidence has already been offered.

Mr. EISEN. That the protestants operating expenses are inflated by an amount equivalent to all or substantial portion of the $240,000 which Mr. Booth is prepared to do, and

2149 has witnesses to establish, I think that has a very material effect upon the revenue situation which the Commission must give consideration to.

Now, however, if we are to be precluded from going into the revenues insofar as they affect the 9.1- or the 10-cent fare or the 9-cent fare, they apply equally with respect to those fares as they do to any other fare.

Exam. KOCH. We will receive testimony here so far as revenue is concerned only with respect to the difference in revenue resulting between the 9-cent fare on the one hand and the proposal here on the other.

Mr. EISEN. And not what revenues the carrier needs or anything of that sort; am I correct, Mr. Examiner?

Exam. KOCH. That is correct.

Mr. BOOTH. May I state then for the record that if we were given an opportunity to go into this item we would show either because of change of conditions or because of other factors that there would be a very serious question as to whether the Commission should allow it.

Exam. KOCH. You file your petition and we will see what the Commission does about it.

Mr. EISEN. Inasmuch as you have made the ruling, Mr. Examiner, I make an offer of proof to the effect that I have a witness here that was ready, able and willing and
2150 would have testified in due time, that the situation of the Hudson & Manhattan Railroad for the first six months of this year as such, that it reflects an increase of 30 percent in patronage over 1941, the corresponding period of 1941, that the H. & M. Railroad has testified that under existing fares of 9 and 10 cents a 30-percent increase in patronage would be required to enable them to meet interest on their bonded indebtedness, and that therefore as reflected by the first six months of this year, there was no need, insofar as revenue is concerned, for any prescription of any rate in excess of 8 cents.

Mr. FINERTY. Just so that injustice won't be done to the Commission in connection with the President's "hold the line" order, I think Mr. Booth should concede that when the Commission allowed 1/11th of a cent advance downtown, and—or a 10/11ths of a cent for uptown passengers, it coincidentally reduced the uptown fare by the same order 10/11ths of a cent.

Mr. BOOTH. We don't agree with your assumption, Mr. Finerty, that only 10 percent of the downtown customers would pay the 10-cent fare.

Mr. FINERTY. Well, we have not finished with that yet, Mr. Booth.

Mr. BOOTH. Well, that is all right with me, too, if you have any proof, but we will make our own position clear in this case. We do not ask for your help.

2151 By Mr. BOOTH:

Q. Mr. Brown——

Mr. BOOTH. I take it, then, Mr. Examiner, that if I were to question the witness further on this $240,000 that you would sustain objections to the testimony——

Exam. KOCH. That is correct.

Mr. BOOTH. By the company's president.

Exam. KOCH. That is correct.

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Cross-examination of JOHN J. FRITSCH, Comptroller, Hudson & Manhattan Railroad Company.

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2215 By Mr. EISEN:

Q. Mr. Fritsch, do you have any figures to indicate what the additional revenue accrued to the joint service as a result of the Ex Parte 148 increase?

Mr. FINERTY. I object; divisions again.

Mr. EISEN. No; it is not divisions. All I want to know is what the increase amounts to as a result of 148 at the current time under joint revenues.

Mr. FINERTY. That has nothing whatever to do with local fares on the uptown and downtown line. The question is the only one at issue here, Mr. Examiner.

Exam. KOCH. Objection sustained.

By Mr. EISEN:

Q. Mr. Fritsch, it was stated as being the position of the Hudson & Manhattan Railroad that a 30-percent increase in patronage in 1943 over 1941 at the existing fares of 8 and 10 cents would be required in order to meet current bonded indebtedness. Would that still be a correct statement as you understand it?

Mr. FINERTY. Mr. Examiner, I again object. You sustained an objection to that question to Mr. Brown, I remember.

Exam. KOCH. Objection sustained.

Mr. FINERTY. Off the record.

2216 Exam. KOCH. Off the record.

(Discussion off the record.)

* * * * *

2216 By Mr. EISEN:

Q. Are you familiar with how much of the $20,000 monthly War Contingency Reserve has been expended this year for the purposes of war contingencies safeguards?

Mr. FINERTY. Well, I object as not within the scope of the reopened hearing, as the Examiner pointed out. There has been no change in the War Contingency Reserve, but I think I am correct, Mr. Fritsch, in this respect, that perhaps we misled the Commission originally. We have not only spent

$20,000 out of this War Contingency Reserve; we have charged $20,000 each month to that reserve. Is that correct, Mr. Fritsch?

The WITNESS. We have credited $20,000 each month.

Mr. FINERTY. We have credited $20,000 each month from operating expenses to that reserve.

Exam. KOCH. Well, but have you been using it?

2217 Mr. FINERTY. Yes.

Mr. EISEN. Well, that is my question. I would like the witness to answer that.

The WITNESS. None of it has been expended to date.

By Mr. EISEN:

Q. So that ——

Mr. FINERTY. Wait a second, Mr. Fritsch.

Mr. EISEN. Well, I object.

Mr. FINERTY. I am sorry.

Exam. KOCH. Didn't you take $20,000 out of that for that wreck?

Mr. FINERTY. Yes; you charged $120,000 of that reserve to the wreck, didn't you?

The WITNESS. Probably——

Exam. KOCH. This is an accounting matter which is a little difficult to explain is it not?

The WITNESS. Yes. Well, we have charged to the reserve approximately $125,000, but we started to credit this reserve in order to get that money back into the fund. We started last September to replace that and anything additional that we may need subsequently.

In other words, there has been a slight increase in the reserve, the difference between $240,000 and $125,000, which has been expended. That has been the increase in the reserve since I have been there in the last year.

Exam. KOCH. The difference between $125,000 and $240,000?

2218 The WITNESS. Yes, or approximately $115,000.

Mr. FINERTY. Then the correct answer, Mr. Fritsch, is that $125,000 has been expended out of the reserve?

The WITNESS. That is right.

By Mr. EISEN:

Q. Now, the reserve has accumulated $180,000 this year, $20,000 a month for nine months. That is $180,000; is that correct?

A. This year, yes; that is true.

Q. Now how much has been expended of that $180,000 for this year?

A. Nothing has been expended this year.

Q. Nothing?

A. Nothing.

Q. Now, that $20,000 a month is being charged to operating expenses?

A. That is true.

Q. Don't you believe that that amount can be reduced, and the operating expenses accordingly reduced?

A. That would be something over which I would have no control.

Q. Now, the protestants estimated that the Ex Parte 148 increase in joint fares would have amounted to or did actually amount to $400,000 in 1942. Do you know whether that figure is substantially correct or otherwise?

Mr. FINERTY. May I hear that question?

2219 Mr. Finerty. Well, the same objection to this whole line of questioning and an additional objection because the Examiner ruled out my question.

Exam. [LAW] *Koch.* The same ruling.

By Mr. EISEN:

Q. Have you made any studies to determine how much additional revenue can be obtained from an increase in a five cent division in the joint fare whereby the Hudson & Manhattan operates between Jersey City and downtown New York, particularly in view of the admonition of the Commission in Ex Parte 74?

Mr. FINERTY. The same objection, coupled with Mr. Brown's statement that we are exploring that with the Pennsylvania Railroad.

Exam. LAW. Same ruling.

Off the record.

(Discussion off the record.)

Exam. LAW. On the record.

Mr. EISEN. Have you made or prepared any exhibits or will any exhibits be prepared, Mr. Finerty, showing the present revenue situation of the Hudson & Manhattan Railroad?

Mr. FINERTY. There will not.

By Mr. EISEN:

Q. Have you made any studies to determine whether the H. & M. will suffer any deficit during 1943 if it employed

as its basic figures 9 cents for the local downtown
2220 fare and 10 cents for the local uptown fare?

Mr. FINERTY. The same objection, and the added objection that this whole hearing in the Commission's report is based on the assumption that we can't collect 9 cents.

Exam. [LAW] *Koch*. Same ruling.

By Mr. EISEN:

Q. Have you made any studies to determine what the 1943 revenue results would be—have you made any studies, Mr. Fritsch, to determine whether or not the alleged increase shown in your Exhibit No. F-150 will provide sufficient monies to meet bonded indebtedness or otherwise?

Mr. FINERTY. Same objection.

Exam. [LAW] *Koch*. The same ruling.

By Mr. EISEN:

Q. Now, Mr. Fritsch——

Mr. EISEN. This is under the Commission's proposed basis. Do you know, Mr. Examiner, this is under the Commission's proposed basis, my question was.

Exam. [LAW] *Koch*. Yes, sir; but it has nothing to do with the modifications made to the 9-cent fare finding.

Mr. EISEN. The modification of the 9-cent fare is not in any way, shape or form related to revenue; is that correct?

Exam. [LAW] *Koch*. It is related to revenue only and to this extent, as to whether or not there will be any more or less revenue on the proposed basis than on the 9-cent fare, if it could be collected.

2221 Mr. EISEN. And we are not concerned with whether or not the proposed basis will produce revenues over and above those needed by the carrier.

Exam. [LAW] *Koch*. Well, of course, it is self-evident from the statements made here by Mr. Brown, that if that testimony can be accepted at its face value, the H. & M. receives less under the proposed basis than under the 9-cent fare, if it could be collected provided, of course, that there would be the same basis uptown as downtown.

Mr. EISEN. Yes, Mr. Examiner, but there is nothing in the record to show what the operating expense of the H. & M. are or any of a multitude of matters for the year 1943 and that is what I am trying to develop from this witness.

Without having those figures in, neither the Commission nor we can make any computation.

I have asked him if he has made any, and I was ruled out of order in trying to develop whether he has made any such studies, and what the results are.

Mr. FINERTY. Well, I understand, Mr. Examiner, that it comes under your general ruling, and I would also like to suggest that would only become pertinent if they filed a complaint against your 9-cent—I mean a petition for rehearing under your 9-cent fare.

Exam. [LAW] *Koch*. That seems to be so.

2222 Mr. EISEN. I am not arguing, Mr. Examiner; I am merely trying to get the record clear.

Exam. KOCH. Well, the ruling is the same.

Mr. EISEN. Yes, I understand; I just wanted to get it clear.

By Mr. EISEN:

Q. Now, do you know what *is* the present market value of your adjustment [in combines] *income* bonds?

Mr. FINERTY. Objection.

Exam. KOCH. Sustained.

* * * * * *

By Mr. BOOTH:

Q. Mr. Fritsch, where did you get this 90 percent figure that constitutes the basis for your Exhibits 147 to 150?

A. That is the basis that was given to me in order that I might prepare these figures.

Q. Who gave it to you, Mr. Brown?

A. It was arrived at at a conference with Mr. Brown and the attorneys.

Q. Who participated in this conference, the attorneys and Mr. Brown?

2223 A. That is all that I know of.

Q. Mr. Finerty?

A. No.

Q. Mr. Buck?

A. Mr. Buck.

Q. You had nothing to do with the estimate of 90 percent yourself?

A. No.

Q. You are not sponsoring that 90 percent figure?

A. No.

Q. And you have never participated in the preparation of any fare or token structure in the course of your experience in your career?

A. No.

Mr. FINERTY. I might state to obviate any examination on that, Mr. Fritsch is not offered as an expert except for anything but as an accountant.

Mr. BOOTH. I just wanted to clear it up that he was not sponsoring the 90-percent figure, and I would like to ask him some questions on accounting, if the record is broad enough to permit that type of inquiry.

By Mr. BOOTH:

Q. Now, in view of the fact that he has given some testimony on that $240,000, I feel it necessary to ask questions on that.

Let me call your attention to a statement of your at-
2224 torney, Mr. Finerty, in oral argument, on page 20. He stated as follows:

"In connection with the $240,000"—he said "that the annual charge"—this is in quotes "is a contribution to"—and this is in quotes "a war contingency reserve," in quotes "that war contingency reserve of necessity increases [and] *the* self insurance by the petitioner to meet war casualties which may very well occur and which might otherwise cripple petitioner." Is that a correct statement of the purpose of that reserve?

A. Well, under our system of accounting, there could be no such thing as a contingency reserve. The I. C. C. has no such thing as a contingency reserve, but we could create, through insurance-expense accounts a reserve to which could be charged such items as guarding tunnels at night and any increased insurance that might be taken out because of the contingency.

Mr. FINERTY. It would include self insurance?

The WITNESS. Surely. We could carry our own insurance to a certain extent.

By Mr. BOOTH:

Q. Well, may I ask you this: Has the company insured itself with the War Damage Corporation for war casualties or similar casualties that might occur as a result of the war?

2225 A. We carry some insurance of the exact extent I do not know, because I do not have charge of the insurance. But the Board felt, as I understand it, that they needed a little more protection and they decided that they would keep the funds themselves and create this reserve, rather than spend it and pay some insurance company for it.

Q. Well, the purpose of it is to meet war casualties; is that correct, and war damages?

A. Well, that I could not say, because it was a board ruling that instructed me to put the reserve on the books. I do not know what was behind it.

Q. Well, was there a minute of the board of directors adopted in connection with it?

A. There was a resolution adopted.

Q. Could you present it and make it available for the purpose of the record?

A. I have not a copy of it; no, sir.

Mr. Booth. I ask that the witness procure a copy and present it for the record.

Mr. Finerty. Well now, this comes of being good-natured, Mr. Examiner. I did not object to this whole thing strenuously at the time, because there was a question you wanted answered.

Exam. Koch. I have been wondering when you were going to wake up.

2226 Mr. Booth. Well, it either ought to go out or it ought to go in. I am willing to have the Examiner throw it out and we will stand on our exception.

Exam. Koch. I think we had better stop.

Mr. Booth. If I understand we are not to be permitted to go into this phase of it.

Exam. Koch. Right.

Mr. Booth. We will take exception to the Examiner's ruling.

* * * * *

2227 By Mr. Booth:

Q. Mr. Fritsch, were you instructed to prepare some exhibits or tabulations showing the income and expenses of the company both as to its railroad operations and as to its overall operations for the period ending August 31, 1943, or the latest available date?

Mr. Finerty. Mr. Examiner, I will answer that question. Mr. Fritsch was instructed to have available, if the Commission should so require, a list of nine statements which I show you, asked by Mr. Booth, all having to do with the overall question of the reasonableness of the revenues under the nine-cent fare and all having to do with exactly the subjects which Mr. Eisen has been examining, and which you have excluded.

We have furnished the tenth number on that which
2228 has not to do with revenues but has to do with the traffic, and is covered by our Exhibits 147 to 150, inclusive. The rest of it, unless directed by the Commission, we will not furnish.

Exam. KOCH. Very well.

Mr. BOOTH. I understand, Mr. Finerty, that Mr. Koch at our request asked you for this information and you declined to give it to him.

Mr. FINERTY. With the exception of No. 10, which was furnished.

Mr. BOOTH. That is right. Could you give that to the reporter and let him read it?

Mr. FINERTY. Have you got a copy of it?

Mr. BOOTH. May we give a copy to the reporter tomorrow? I understand that the Commission will not comply at this time that our request that that data be presented and incorporated in the record.

Exam. KOCH. That is the Examiner's ruling.

* * * * * *

2229 Mr. FINERTY. Yes.

Mr. BOOTH. Were the exhibits offered in evidence?

Mr. BOOTH. Were they received in evidense?

Exam. KOCH. Not yet.

Mr. FINERTY. I now renew the offer.

Mr. BOOTH. I want to object unless the evidence is as to the income and expenses of the company for the same period as also presented.

Exam. KOCH. The objection is overruled, and the Exhibits 147 to 150 were received.

* * * * * *

SEPTEMBER 29, 1943.

* * * * * *

2266 Mr. HERSHENSTEIN. If Your Honor please, I am going to have Mr. Booth and Mr. Eisen carry on. I must leave.

But in reading the record, I find that an objection was made by Mr. Booth at the outset and so that the record may show that the objection applies to all the protestants and to Jersey City, I want to state for the resord, on behalf of Jersey City, we vehemently protest against the circumscribing of

2267 the hearings by the order of the Commission, and the limitation put upon this hearing by the Commission.

Of course you have no power other than to carry out the instructions of the Commission, but we say, if Your Honor please, that it has become apparent that the Hudson and Manhattan Railroad Company is attempting by this modification to obtain increased revenues by an increased fare.

On the surface it is an application for a modification simply because they cannot accomodate their coin boxes to a collection of a nine-cent fare, but it seems to me quite clear that Mr. Finerty in direct examination of his witnesses, indicated that what they are really seeking was the additional revenue which they think they are entitled to. That being so, we say that it is improper for the Commission to have made the order which it did make under date of September 18, 1943, not only by limiting the scope of the present hearing, in the language of the Commission:

"that such further hearing is for the purpose of permitting any party to present evidence directed solely to the propriety and lawfulness of the modifications made by the Commission in the report of August 3, 1943"

without giving us an opportunity of meeting everything which has been proposed by the railroad company, in
2268 the way of demonstrating quite clearly that they have received and earned an increased revenue to meet what they complained about when the Commission made its order of June 8, 1943.

We further, if Your Honor please, respectfully object to the limitation made by the Commission that there shall be no argument before the Commission, that the matter should be heard by Your Honor upon oral argument which Your Honor has ——

Exam. KOCH. Mr. Hershenstein, by the authority of Commissioner Porter, I am affording the opportunity to the parties, I intended to do this at the close of the testimony, but I will do it now, an opportunity to the parties to elect whether to orally argue this matter before me at the close of the proceedings here or to file briefs.

Mr. HERSHENSTEIN. Well, your Honor ——

Exam. KOCH. Of course the briefs would include argument which you are referring to.

MR. HERSHENSTEIN. I understand.

Mr. FINERTY. Let me make this clear, Mr. Hershenstein: The briefs are not to be filed with the Examiner. They are to be filed with the Commission.

Mr. HERSHENSTEIN. I see.

Well, I still say that in an important matter as this has now turned out to be, that the Commission should not deviate from the rule which has prevailed in all these fare
2269 cases, and in all these suspension cases particularly, to give us an opportunity to argue the matter orally before the entire Commission. That is a matter for them to determine.

Exam. KOCH. I wish the record to show quite clearly why I say, by authority of Commissioner Porter.

This proceeding is on his personal docket, and this being an administrative matter, the Commission has given to him the authority to say whether or not there shall be briefs in this proceeding.

Mr. HERSHENSTEIN. I understand, sir, Your Honor's position, perfectly. Thank you.

* * * * *

Mr. EISEN. Just so that we may clear up this matter
2270 of motions at this time, on behalf of all New Jersey protestants whom I represent in this proceeding, including the city of Jersey City, I want to adopt on their behalf the motions heretofore made by Mr. Booth and Mr. Hershenstein.

Now, on behalf of all protestants, the New Jersey protestants, I want to make this further objection to the restriction of the Commission's order.

In the first place, it prevents us from bringing a stale record, which we contend is stale under the changing circumstances as they are currently occurring, up to date or down to date.

In the second place, according to my reading of the Commission's order—I may be mistaken—but according to what I can deduct therefrom, it would appear to me that the Commission has predicated in its August 3d report and apparently seeks justification therefor, the prescription of a fare predicated on an alleged carrier disability.

Furthermore, it would appear that one of the grounds for justification of the prescription of a higher fare than that heretofore preseribed is that there will be a reduction made on some other branch.

Now, in my opinion at least, it is contrary to the powers of the Commission under the Act and contrary to precedent for the Commission to prescribe a rate predicated on carrier disability. It is a fact that every passenger is entitled to a reasonable fare per se on his own line, regardless of
2271 what happens to other branches and other adjustments and prescription of the Commission's order and restrictions and limitations imposed by the order of September 18 assigning this hearing would appear to me to deprive us of very fundamental rights and sets up matters which are entirely erroneous, it would seem, and contrary to law.

Exam. Koch. Now, you said something a while ago about motions. I heard no motion. If you regard those as motions which you have just made, the time to make them is in the brief or in conjunction with the brief.

I assume that you gentlemen do not expect me to take the motions you have made on this record and present them to the Commission.

Mr. Booth. We will file a motion in writing, as far as the intervenors, the Office of Economic Stabilization and the Office of Price Administration.

Mr. Eisen. The purpose of making the statement I make and that the other parties made, I believe was precedent to making a motion that the Commission modify the scope of its order of September 18, and afford all parties a requisite opportunity to submit evidence having to do directly with the issues involved in the I. & S. case. I do not think it necessary to go into those, and an opportunity to bring the record
2272 down to date, and I ask the Examiner to submit that motion to the Commission, which might result in a further reopening of the proceeding before ultimate disposition hereof.

Exam. Koch. Now, Mr. Eisen, if I consented to do that we would have an argument. A while ago I gave you the alternative of an argument before this Commission or the filing of briefs.

Mr. Eisen. An argument before yourself.

Exam. Koch. Of the filing of briefs, which of course will be presented to the Commission.

Now, you know the rules of practice before this Commission, and the rules do not provide for any procedure like you have just indicated here.

I want to point out that the proper way to present this is like the OPA just indicated they are going to do. That is,

if you desire to present a motion like you have just indicated here you present it in a formal way so it can be separately presented with the arguments pro and con and can be responded to by the Hudson and Manhattan Railroad Company.

Mr. BOOTH. With respect to the suggestion made earlier, namely, either to argue the matter or to present a brief, we think the matter is of sufficient importance, in connection with the government's program to keep down cost of living, that the matter should be presented by oral argument to
2273 the full Commission.

Exam. KOCH. You will have a chance to do that. That is, you will have a chance to argue, in written form, in the brief.

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QUESTIONING OF JOHN C. VAN GEISEN, GENERAL SUPERINTENDENT OF THE HUDSON & MANHATTAN RAILROAD COMPANY

* * * * *

2399 Mr. FINERTY. Mr. Van Geisen, as I understand it, you estimate that 90 percent of your passengers will use tokens and 10 percent will pay cash fares. Is that correct?

The WITNESS. I estimated what, Mr. Finerty?

Mr. FINERTY. I understand that the estimate of the Hudson & Manhattan Railroad Company is that 90 percent of its passengers will use tokens and 10 percent will pay cash. Is that correct?

The WITNESS. Yes.

* * * * *

2417 Mr. BOOTH. If the examiner please, in view of the fact that we have had only a week's notice or eight days' notice of the resumption of these hearings to try to present and prepare facts upon the important issues involved here, the time has been insufficient; we, therefore, request that, while we have made some progress in getting some data together which we think will be helpful and of value to the Commission in the determination of the issues in this case, even under the limited character of the hearing, nevertheless I think we would all be better off if the Commission gave us a couple of weeks to conclude, if possible, the collection of the data and its preparation. I, therefore, ask that the case go over for two weeks.

Exam. KOCH. The examiner will have to deny that request because he is under instructions by the Commission to con-

clude this case at this hearing unless there is some extraordinary circumstances, and I don't regard that as an extraordinary circumstance for the reason that this isn't the first time this question was up.

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DIRECT EXAMINATION OF DAVID A. KOSH, SENIOR RATE ANALYST, PUBLIC UTILITIES AND TRANSPORTATION DIVISION, OFFICE OF PRICE ADMINISTRATION

* * * * *

2424 By Mr. BOOTH:

Q. Now will you summarize the factual data that you have been able to collect? And in that connection I call your attention specifically to exhibit F-146—this has been marked for identification—the report of the Committee on Fare Structures of the American Transit Association.

A. You mean F-142. May I correct you?

Q. F-142; yes, sir.

A. Yes.

I found that report—and this is a copy of it—this brief—that report is a statistical analysis of the general proposition that there are three highly correlated factors:

The savings that can be obtained by the purchase of tokens;

The investment that has to be made in such purchase—that is, the minimum investment; and

2425 The degree to which tokens will be utilized under different conditions of savings and minimum investment in tokens.

Q. And do you regard this analysis as—or will you discuss the analysis that was made in this study in more detail?

A. Yes, sir.

The typewritten pages are merely the author's description of what he said on some of the statistical measures of the results.

The first photostatic table is merely a tabulation of actual data, the source of the data, and the last three columns——

May I say this first? After receiving this data the author processed it in order to get——

Q. Who were the authors?

A. A Mr. Stevenson, who is now senior statistician or head statistician of the A. T. A., and one of his associates—yes, sir—Mr. Ong.

They obtained this data and processed it to get implications out of it; and they came to the result that, given the saving

that is available through the use of purchase of tokens and the investment in such tokens, the use of those tokens could be predicted.

They found that relationship on the basis of this data and in the last three columns they indicate the difference between the actual facts as submitted to these companies and
2426 the prediction on the basis of this analysis.

Q. The last three columns of what?

A. Table A.

However, instead of indicating it in the percentage use of tokens they have translated that percentage use into average fare, which is a simple arithmetical calculation, merely multiplying the percentage use of tokens by token cost and the percentage use of cash fare by cash cost, and the result is the average fare on the system, and the last three columns indicate the degree to which, on the basis of this study, they could predict actual token use and, hence, average fare.

Q. Well, referring to table A, that shows the various local transportation and rapid-transit companies that sold token fares; is that correct?

A. That is right.

Q. And token and cash fares?

A. That is correct.

Q. And only token and cash fares; they did not sell passes, as you understand it?

A. No; companies that sold passes had to be excluded from this analysis.

Q. Do you know about how many companies are there?

A. I think 90-some-odd companies, with 127 instances. The reason the number of instances is larger is that during the period of this observation some of the companies
2427 changed their token system and, hence, the relationships of savings and investment were different, and use was different. I think there are 127 pieces of information contained in this table.

Q. Now did the study show that the greater the investment and the less the savings between the——

Mr. FINERTY. Now wait a second. You are not in a position to ask what the study showed; the study is before us here.

Mr. BOOTH. Well—I think it ought to be—it is proper to have it——

Mr. FINERTY. It may be explained——

Mr. BOOTH. And summarized.

Mr. FINERTY. Let your witness tell you what the study showed.

Mr. Booth. I am asking the witness what it showed.

A. Obviously, the connection is this: The greater the savings and the less the investment the greater the use of tokens or, conversely put, the less the savings taken over cash fare and the smaller the investment that has to be made in tokens the greater the use of such tokens.

By Mr. Booth:

Q. Now have you abstracted from the study the various companies that have sold tokens in quantities or in amounts of $1?

A. I have abstracted from the table those companies that required an investment of 60 cents or more as a mini-
2428 mum investment for tokens.

Q. Will you list those instances for the record and the tokens and show the average use of tokens under those circumstances?

A. Of all the companies that had required investments in tokens ranging from 60 cents to $1, inclusive, the use of such tokens varied from nine percent up to a maximum of 62 percent, the reason for that variation, of course, being the other variable, the savings available of tokens over cash fares; but the maximum use of tokens under an investment ranging from 60 cents to $1 on the basis of this study was 62 percent.

Q. Well—now what—let's take the Alabama Power Company, Montgomery Division: What was the cash fare there?

A. Eight cents.

Q. The token investment?

A. $1; 16 tokens for $1.

Q. And what was the token rate?

A. 16 tokens for $1, 6¼ cents per token, or a penny and three quarters saving in the purchase of a token.

Q. And the Columbus Transportation Company, in Columbus, Georgia.

A. They had a seven-cent cash fare, 15 tokens for $1, which means a 6⅔ cents cost, and they sold 15 percent; in other words, 15 percent of their riders used tokens under those conditions.

Q. What was the savings?

2429 A. Seven cents cash, 6⅔ cents for a token; or a third of a cent on seven cents, resulting in a 15-percent use.

Q. Have you tabulated that in the form of a sheet?

A. Yes, sir.

Mr. BOOTH. I suggest, in order to save some time, that he merely hand the sheet to the Reporter and let the Reporter copy it into the testimony; and then we can——

Exam. KOCH. How many have you got?

Mr. EISEN. He doesn't want it as an exhibit, as I understand it; he just wants it copied in as testimony.

Mr. FINERTY. I would like to see what conclusions he draws but, before that, Mr. Examiner——

Exam. KOCH. It isn't conclusions?

Mr. FINERTY. These are.

Mr. EISEN. These are in this exhibit.

Mr. FINERTY. Let me recall to you that exhibit. At the time F-142 was offered I called the examiner's attention to the fact that it had no reference whatever to the Hudson & Manhattan Railroad Company or to any conditions shown to have any reference to any conditions similar to those of the Hudson & Manhattan Railroad Company so far as traffic, territory, or any other material matter was concerned; and I stated then that, in my opinion, the exhibit was not admissible but I was glad to have the Commission have any information they might get on tokens.

2430 I want to now call your attention to the fact that these tabulations that he is making of the same effect——

May I just see that tabulation?

A. Yes, sir.

Mr. FINERTY. That the companies covered by the tabulation vary from Alabama, Montgomery, to Pueblo, Colorado, or Evansville, Indiana, Concord, New Hampshire, Utah, are scattered widely over the United States of America, and not one of them has the slightest relation to conditions between Jersey City and Manhattan, New York.

And I think I will be compelled to object to the admissibility of the tabulation on that ground.

Mr. BOOTH. You are objecting to my questioning this witness?

Mr. FINERTY. I am objecting to the whole tabulation and the whole subject as having no relevance whatever to this situation.

Exam. KOCH. You just hand that to the Reporter and let him copy that in because that,[1] as I understand it, is just recapitulation of the important items of the same type that are in your exhibit.

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[1] See page 2430A.

A. They are taken exactly from table A, except I have taken those instances where an investment from 60 cents to $1, inclusive, was used.

2431. May I also point out one thing? I failed to explain this at the beginning:

Although this table was put in in 1937 we have attempted in the very short time available to spot-check it to see if, if it were brought up to date, the results would be substantially different, and such spot checks have been made——

2430a *Distribution of revenue passengers as between cash fare and reduced rate users for companies of table A [1] requiring highest investment*

	Token investment	Cash rate	Number of tokens	Token rate	Token ratio
		Cents		*Cents*	*Percent*
Alabama Power Co., Montgomery Div	$1.00	8	16	6.25	60
Columbus Transportation Co., Columbus, Ga	1.00	7	15	6.67	15
Gary Rwys. Co., Gary, Ind	1.00	8	14	7.14	31
Georgia Power Co., Atlanta Div	1.00	7	15	6.67	20
Madison Rwys. Co., Madison, Wis	1.00	8	17	5.88	60
Savannah Elec. & Power Co., Savannah, Ga	1.00	7	15	6.67	17
Southern Colo. Power Co., Pueblo, Colo	1.00	7	15	6.67	25
Southern Ind. Gas & Elec. Co., Evansville, Ind	1.00	6	20	5.00	50
United Traction Co., Albany, N. Y	1.00	10	13	7.69	56
Utah Light & Traction Co., Salt Lake City, Utah	1.00	6	20	5.00	47
Wichita Trans. Co., Wichita, Kans	1.00	7	15	6.67	17
Manchester St. Rwy. Co., Manchester, N. H	.75	8	10	7.50	25
Manchester St. Rwy. Co., Manchester, N. H	.75	10	10	7.50	62
2430b Northern States Power Co., Eau Claire, Wis. Div	.75	6	13	5.77	12
Concord Electric Rwys., Concord, N. H	.70	8	10	7.00	35
Dept. of St. Rwys., Detroit, Mich	.60	6	11	5.55	49
Shreveport Rwys. Co., Shreveport, La	.60	8	8	7.50	9

[1] Taken from table A of A. T. A. Fare Study—1937 Proceedings—page 940.

Mr. FINERTY. That just adds another objection, I think that this exhibit shows that most of the data in it long preceded 1937, when the study was completed.

A. Well— It was merely to meet that kind of an objection that we undertook to make the spot-check; and we sent out 10 telegrams; I think we got nine answers from cities throughout the country. And the check is extraordinarily good.

By Mr. EISEN:

Q. You are prepared to put that in?

A. Yes, sir.

By Mr. BOOTH:

Q. You go ahead.

By Exam. Kosh:

Q. I will ask a question on the point: Were you going to say as to what years were employed here in procuring the data upon which this is based?

A. This table A, Mr. Examiner, indicates—first column after the name of the company—indicates the year for which the data is taken.

By Mr. Booth:

Q. And for what years?

A. It goes, roughly, from 1926 and has some figures in it relating to 1935. The second one is 1921 and on one
2432 of those pages I remember seeing one as late as 1935. There are some as late as 1933.

Q. May I ask you this, Mr. Kosh: Have the fundamental principles with respect to the use of tokens differed in 1925, 1935, 1940, and 1943, as far as you have been able to determine from this study or any other information that you have been able to——

A. On general principles it doesn't seem to me there is much question but that the larger the saving the greater the use of tokens; the larger the investment the less the use of tokens.

But in order to have a statistical check on this I sent telegrams to certain companies and we have received answers; we sent out 10 or 11 telegrams and received nine answers. Those were tabulated and those are available. In those we asked for figures for 1943; and the results are for 1943.

On this table I have shown the data as applying to 1943 and the difference between the actual results obtained for those companies for 1943 or 1942, the latest data available, and those that would have been predicted or read off from this 1937 study.

Q. Do you have a copy of that?

A. I have several copies of it.

2433 Mr. Booth. We will make more. I ask that that be marked for identification as exhibit——

By Mr. Booth:

Q. What does that show?

A. In nine of these companies, the first column shows cash fare, the second token fare, the third column is computed saving, the fourth column is investment in tokens, the next column is estimated use in percentage, the percentage that

would have been read off from this 1937 A. T. A. study. The second column after that indicates the actual use as indicated to us by these companies.

For the nine companies the largest difference between what the A. T. A. study would show and what the company actually showed was 13.7 percent. The average divergency for all companies is 1.8 percent.

In other words, on the average these nine companies sold tokens to the extent of 1.8 percentage points more than the study would have indicated for that same group of companies under the conditions of token sale and investment.

Q. Of these instances listed in exhibit 154 how many were there where the average investment was $1 or the investment in tokens required was $1?

A. We couldn't find any from public documents. We couldn't find any companies that were at this time selling for $1; and it is our purpose to extend that search if we have the time, or, at least, to fill out this table of 10 to make it more comparable to the 127.

2434 Q. And there is one that is shown for $1?

A. I take that back. Yes, sir; there is one, halfway down the page.

Q. That is in Chicago?

A. Yes, sir.

Q. But that was the Chicago Surface Lines, prior to 1942; is that correct?

A. Well, that really is— I should have explained that. I am sorry. That one instance, the fifth one down the line, which says "cash fare, seven cents," is for the Chicago Surface Lines, and the percentage entered, 5.7 percent, is the average over the last five years of use of that combination cash and token fares; all others is of the latest data available, either 1942 complete or 1943 as available.

Q. What does it show the use of tokens was in Chicago, where the investment of $1 was required?

A. With an investment of $1 and a savings of 1/3 of a cent over a cash fare of seven cents, only 5.7 percent of the people took advantage of the tokens.

Q. And referring, again, to the study and the analysis made by the Committee on Fare Structures of the American Transit Associations, what use of tokens is indicated with an investment of $1, as required, and where there is a differentiation of 10 percent between the cash and the token fares?

2435 A. If you look at page 945, table B, of the photo-stated sheets, second part of table B, page 945 in the original volume, if you look down the left-hand column, first one in the last group, where it says 9.09 cents as cost for tokens, that is, where tokens are sold 11 for $1, and where cash fare of 10 cents is noted, you would find average fare of tokens and cash would come out for an indicated use of tokens of 33.6.

Q. That is to be contrasted with the company's estimate of 90 percent use of tokens as suggested by Mr. Brown in this case?

A. That is the figure that would be comparable or should be set down against the 90 percent.

By Mr. FINERTY:

Q. What company is that, incidentally?

A. Table B is not for specific companies; it is result of an analysis made of the 127; that is, after the man processed the 127 he got the relationship between the three variables that I indicated.

Q. Will you point out to me a nine-cent fare in the 127 listed here?

A. I indicated it is not for a specific company; I indicated also in the first table the man processed 127 pieces of data and drew a relationship between the three variables. He indicated how close those variables were for each of the 127 instances, a remarkably close agreement. Now, taking
2436 that average figure of relationship, he finds that where a cash fare of—11 for $1 were to be sold along with a 10-cent fare, his best estimate of the percentage of token use would be 33.78 percent.

Q. Well, in the preceding pages, listing the companies on which he based his calculations, it is true, is it not, there is not a single nine-cent fare or a single fare 11 for $1?

A. You mean 10-cent fare and 11 for $1.

Q. Yes, sir.

A. I haven't particularly looked at that but I will take your word for it.

Mr. EISEN. There is.

By Mr. BOOTH:

Q. Well— This is true, that most of the companies have found it to be quite unsatisfactory to sell tokens in the amounts of — requiring initial investment of $1? Is that true, based upon the——

By Mr. FINERTY:

Q. Have you any personal knowledge of that fact?

A. Well— This is what I would say:——

Q. No; I am asking you a question: Have you any personal knowledge?

A. Yes, sir. I am trying to explain that. I have. These 127 companies indicate actual situations. Now if your
2437 statement is correct—I haven't checked it for that particular point—that there is no company that used that combination, presumably there was reason for it, and it is my opinion that this study on the basis of this data is a very accurate one.

Q. Whatever the reason for it is, there isn't any data in here that shows that any company uses a cash fare of 10 cents or a token fare of nine cents and that the ratio of 33 percent on any known company is there?

A. I will say this, that none of these 127 instances uses that combination of fares——

Mr. FINERTY. Right.

Mr. BOOTH. May I suggest that we be allowed to proceed with our direct examination?

By M. BOOTH:

Q. May I call your attention, Mr. Kosh, to table A, 940, that there is, in Cincinnati, Ohio, 1932–1933—they sold—the cash fare there was 10 cents, and the token rate was nine cents?

A. I presume Mr. Finerty meant 11 tokens for $1; but there is a 10- and nine-cent combination; yes, sir.

Mr. FINERTY. That is right.

By Mr. BOOTH:

Q. Now let's take that Cincinnati situation for a moment. That shows in 1929 and 1930 that the cash fare was 10 cents and the token rate was 8.33, three for a quarter.

A. Three for a quarter.

2438 Q. And token investment was three for a quarter.

A. That is right.

Q. What was the token use in those years?

A. At that time, in 1929, 85 percent of the people used tokens; and in the next year, 86 percent of the people.

Q. All right. Then in 1932 the token investment was changed, is that correct, as well as the token fare?

A. Yes, sir.

Q. What was the change?

A. Well, they raised the investment to forty-five cents; and the average token cost from 8⅓ to nine cents; in other words, the saving was now less and the investment was larger.

Q. What was the investment required?

A. 45 cents instead of a quarter.

Q. Five tokens for 45 cents?

A. That is correct.

Q. What is shown to have been the use of tokens in 1932 and 1933, compared with the use of tokens in 1929 and 1930, when the tokens were being sold three for a quarter?

A. From 85 and 86 percent the token users dropped to 62 and 60 percent.

Q. Would you say that transportation companies have generally found that to be true, that the greater the investment, the smaller the difference between the cash and
2439 token fare, would result in a decline in the use of tokens?

A. I think this exhibit shows it and our spot-check brings it up to date.

By Exam. KOCH:

Q. Mr. Kosh, isn't there another element there in that Cincinnati situation? In 1930 they were selling three for a quarter and in 1932 they were selling what?

A. Five for 45

Q. Five for 45?

A. That is right. That is, they increased the average price of a token from 8⅓ to nine cents and increased the investment. In other words, they were decreasing the saving and increasing the investment, and on both counts the tokens used dropped from 86 to 62 percent.

By Mr. BOOTH:

Q. That bears out the principles established by the authors in this report; that is, that the greater the investment required and the smaller the difference there is between the use—between the cash fare and the token fare—results in a decline in the use of tokens?

A. That is correct. Let me explain this: This table does not prove the theory; it just checks that the general theoretical statement you made is correct.

Q. And that is the conclusion you arrived at, that the authors of this report of the Committee on Fare Struc-
2440 tures of the American Transit Association——

A. That is correct.

Q. Is that the tentative conclusion that you arrived at as a result of the preliminary analysis that you have made of the use of token fares by transportation companies?

A. That is right.

Q. Now let me call your attention to—you stated that you tried to check this report with other data; have you found some other instances, such as the use of tokens in the District of Columbia, recently, which bears directly upon your conclusions?

A. Yes, sir. Recently, I think about a year ago, the District commission considered the question whether, for the local situation, tokens that had been sold six for 50 cents and a 10-cent cash fare should not now be sold at three for a quarter and a 10-cent cash fare. There is one of the variables that has been held constant, in other words, the savings, but the savings remained in both instances 1⅔ cents on a ten-cent fare; the only thing they varied was the actual investment.

The commission came to the conclusion in that case that there were people who could not afford to make a 50-cent investment and that greater token use would result from a decrease in the investment required from 50 cents to a quarter, and the order as it came out was that tokens should
2411 be sold three for a quarter. There is another older case on that, one of the old Minnesota cases.

Q. I want to hand—7 P. U. R., State of Minnesota v. St. Paul Railway Company, where—if I can read it, with the consent of the examiner, 7 P. U. R., N. S., 174—where the Minnesota district court enjoined an order of the Minnesota railway commission because the commission required the company to change its token-fare structure from 10 cents cash for a single fare or six tokens for 45 cents to 10 cents cash and two tokens for 15 cents, the tokens still costing 7½ cents; the district court held—

Mr. FINERTY. Mr. Examiner, I don't like to interrupt but I understand argument ——

Mr. BOOTH. I wasn't arguing; this is merely another instance of where ——

Exam. KOCH. You can include that in your brief.

Off the record. We will take a five-minute recess.

(A short recess was taken.)

Exam. KOCH. On the record.

Proceed, Mr. Booth.

By Mr. Booth:

Q. Mr. Kosh, do you consider this exhibit F-142 an authoritative study on the use of fare structures—on the use of tokens in local transportation and rapid-transit fare structures?

2442 A. Not only is it authoritative, but it is the only one I have been able to find, any objective statistical analysis on figures that could be checked that is available.

Mr. Booth. I ask that it be received in evidence.

Exam. Koch. It is received.

(Exhibit F-142, Witness Kosh, received in evidence.) [See pp. 47 ff., *infra*.]

Mr. Finerty. I would like to specify an additional objection: There is no indication here that any of these token studies involve the use of tokens, not only what saving involved on the particular line but a saving on another route, and I renew my other objection to the exhibit.

By Mr. Booth:

Q. Mr. Kosh, you are in the course of studying this whole problem further and do you—and with the intention of bringing it down to date and showing its specific application to the operations of the Hudson & Manhattan operations?

A. Yes, sir; as I said, in a very short time all we could do was to get these 10 telegrams out to get some checks and there is a lot more that could be done if we had time.

By Mr. Finerty:

Q. And what do you mean by——

Mr. Finerty. Now wait a minute.

Mr. Booth. Just a minute.

By Mr. Booth:

Q. Do you believe, on the basis of your preliminary

2443 study, that it does substantially apply to the Hudson & Manhattan as well as the operations of any other transportation system which would be using token fares?

A. I think this study covers a broad enough range of companies and the checks that they have made on it and the check that I have made on it—I think that indicates its broad applicability; yes sir.

Q. And do you think, on the basis of the study which you have made—Have you reached a preliminary conclusion as to whether the contention or suggestions or testimony offered by the company that there would be a 90 percent sale of tokens is correct or incorrect?

A. I believe the estimate of 90 percent is incorrect, for this reason:

On the basis of the prepared study itself there is an indicated token use of 33-and-some-odd percent.

On the spot-check we have been able to make we found a maximum divergency of 13.7 percent.

Assume even that this 33-percent figure were out by the full 13; corrected to that extent that would still indicate a 46-percent use.

I can't conceive what factors would cause the difference between maximum use of 46-percent and the 90-percent assumption of the company.

Q. Do you believe the 90 percent of the company to be clearly incorrect?

2444 A. I think that is clearly excessive.

Q. Now could you tell the Commission about how much time, considering your other obligations in the public-utilities branch of the Office of Price Administration, in connection with other cases upon which you are engaged—how long it would take you to complete your study?

A. Well, if I had about 30 days and assuming that the companies from which we ask for information cooperated as well as these companies, nine out of ten of whom answered telegrams, I think in 30 days we could have an up-to-date, fairly complete study covering that.

Mr. FINERTY. May I ask a question in that connection?

By Mr. FINERTY:

Q. Do you anticipate it would change your conclusion that the ratio of sale of tokens to cash fares varies with the differentiation of tokens to cash fares and on the amount of the token investment?

A. I don't think it would change that principle at all.

Mr. FINERTY. We will admit the principle; it is its application to the facts that is in question here.

A. All the further study would show would be more precisely the statistical application.

* * * * *

By Mr. BOOTH:

2445 Q. Mr. Kosh, at my direction did you visit the offices of the Hudson & Manhattan Railroad last week?

A. Yes, sir; I was over there last Wednesday morning.

Q. And you asked the company to make available to you information for use in this proceeding, the following data:

A. Yes, sir; that is right.

Mr. FINERTY. Mr. Examiner, that is in the record already.

2446 Mr. BOOTH. No; the list isn't in the record; and I was merely doing it because I wanted to identify it. Will[1] you hand that to the Reporter and have him copy the list of the information that we requested?

Mr. FINERTY. I would like the record to show it is the same list I handed the examiner, which he sustained an objection concerning the data.

Mr. BOOTH. Yes, sir. You gave us the information identified as item No. 10 and refused to give us the other information. The record shows we believe all the other data to be relevant.

By Mr. BOOTH:

Q. Now, Mr. Kosh, have you prepared a table showing the seven-months condensed income statement for the Hudson & Manhattan Railroad, predicated upon its own figures for the first seven months of 1943, compared with the first seven months of 1942?

A. I have not prepared it.

When I was over at the Hudson & Manhattan office Mr. Finerty made a copy of such report available to me, indicating it was also available at the I. C. C. and that is correct; it is exactly the same thing.

Q. We —Just a moment.

Mr. FINERTY. That was furnished to you confidentially and with the understanding that it was embraced by those matters that I had checked, and would not be offered.

2446A The following information would be desirable in connection with the forth coming proceeding concerning the Hudson and Manhattan Company:

1.) Operating Expenses—(Detailed by lines operated, if available):

a. 1942.

b. 1943 (As much as available).

c. 1942 (period corresponding to 1943).

2.) Operating Revenue (Detailed by lines operated):

a. Same periods as (1) above.

3.) Income Statement—Detailed by lines operated, if available).

4.) Profit & Loss Account:

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[1] See page 2446A.

a. Same periods as (1) above:
5.) Balance sheet:
a. Dec. 31, 1942.
b. Latest date available.
6.) Road & Equipment:
a. Same as (5) above:
7.) Nonutility operation:
a. Revenue.
b. Expenses.
c. Balance sheet.
8.) Bonds Outstanding:
a. Mortgage Bonds:
2446B (1) Amounts outstanding at end of 1940, 1941, 1942, and latest date 1943.
b. Income Bonds:
(1) Same as (a) above.
9. Interchange Revenue from Penna. R. R. (If not detailed on Income Statement):
a. 1942.
b. 1943 (As much as available).
c. 1942 (Period corresponding to 1943).
10. Passenger Volume:
a. By individual line:
(1) By month—Jan. 1942 to date.
2447 A. I merely want to say it is exactly the same as that in the I. C. C. files.
Mr. Booth. Just a moment.
I want it to be marked for identification.
Mr. Finerty. Mr. Examiner, I am going to object to its being marked for identification; it is within the data that you ruled would not be furnished and was furnished by me to Mr. Kosh merely for his convenience with the understanding that it would not be offered here in that form.
A. I don't think that is quite correct, Mr. Finerty.
Mr. Booth. Well—I would have tried to get it; whether you gave it to us—It is available in the I. C. C. offices.
Mr. Finerty. You can offer it right now; I will admit it appears in the Interstate Commerce Commission and I object to it under the limited issues in this case and the objection has already been sustained.
A. May it be marked as exhibit——
Exam. Koch. There is no occasion for that.
Mr. Booth. You won't allow it to be marked?

Exam. Koch. No.

There is no occasion for that at all because it is included in the previous rulings I have made; and it is irrelevant.

Mr. Eisen. Don't we have a right to have it marked for identification?

2448 Exam. Koch. Not if it is irrelevant.

A. I know this isn't my prerogative as a witness, but Mr. Finerty made the statement this was given to me with the understanding that it would not be used at the hearing; I don't think he meant that.

He indicated that it was part of the information that he didn't think was relevant.

However, since it was available at the I. C. C. he was making it available to me; there was no stipulation.

Mr. Finerty. More accurately, say I didn't expect Mr. Booth to get it in through the back door.

He ruled out the other evidence.

A. I am not talking about that; I am talking about the fact there was no stipulation.

Mr. Finerty. You are correct.

Mr. Booth. I just want to be certain the examiner is excluding that, and want to make my record.

Exam. Koch. I wish the record to be perfectly clear about it:

It is excluded because under the issues as the Commission has laid them down at this further hearing I cannot receive it.

Mr. Booth. May I state, then, for the purposes of the record, that we would demonstrate that without adjust-

2449 ment of the company's operating claimed expenses with respect to the item of $240,000, which we would also show there is no basis for in view of existing conditions, that the current earnings of the company——

Mr. Finerty. Mr. Examiner, before he sticks this in the record:

He is trying to get in the back door and evade your ruling and get into the record what you ruled out.

Mr. Booth. I am going to make an offer of proof:

Mr. Finerty. I object.

Mr. Booth. You made an offer of proof yesterday in which you read in detail the figures, after the examiner refused to allow the data to be presented.

Mr. Finerty. This is ruled out by the examiner as not within the ——

Mr. Booth. I am not going to read any figures; I am merely going to state what the Commission stated, that the——

May I state this, then? That in its 1938 order in this case the Commission estimated that the earnings of the company would be a certain figure under the eight-cent fare; in its June 8th order the Commission estimated the earnings of the company would be a certain amount under the nine-cent fare; if we were given an opportunity to demonstrate by the presentation of evidence in this hearing we would show that the current earnings of the company at the eight-cent fare
2450 and for the full year 1943 will exceed either of the amounts which the Commission found to be adequate and reasonable in these two previous orders and that if an adjustment were made for items of expenses which we believed to be without foundation or reason that the earnings would still be substantially higher, and that is proof that we would present if we were given an opportunity to do so. Now——

Exam. Koch. I understand you are going to ask the Commission later on in a formal manner to reopen this so you can present that evidence.

Mr. Booth. I will file that motion in writing even before any briefs or anything else are filed; I will file that with the Commission at the earliest possible time.

Exam. Koch. Very well.

By Mr. Booth:

Q. Mr. Kosh, have you made a study—attempted to get some data with respect to insurance rates and regulations for war damage?

By Mr. Eisen:

Q. Have you made certain studies of the applicable premium rates for war-damage insurance as provided by the War Damage Corporation?

A. Yes, sir; I have.

Q. And will you please state in your own words the result of your study as applied to war-damage coverage for the Hudson & Manhattan Railroad as made available by the War Damage Corporation?

2451 A. Under the rate in force by the War Damage Corporation for insurance the highest rate applicable to any class of property owned by the Hudson & Manhattan Company would, under 100-percent insurance, be at the rate

of 18 cents per $100. That means at the rate of $1,800 per $1,000,000.

In other words, if the company wanted to insure itself this year against a possible damage of $240,000 the rate would be $1.80 per $1,000 or $1.80 times 240, which would be about $400.

Q. And exactly what risks would that cover, Mr. Kosh?

A. That covers against all damage resulting from enemy attack or from the efforts of the United States forces in repelling enemy attack, any bombing or any shelling or anything of that sort.

Mr. Fineberty. Not including, of course, damages due to speed-up of war traffic or drafting of experienced employees.

A. Just as I indicated.

By Mr. Eisen:

Q. Yes, sir; just as you indicated.

You could get that rate and limited exactly to what you stated, damage by the enemy——

A. And by American forces in repelling an enemy.

* * * * *

2470 Mr. Booth. The record will show that we reserve the right to have him present a more complete study if an opportunity is afforded to us by the Commission.

Exam. Koch. You mean you ask for the right?

Mr. Booth. Yes, sir; certainly.

* * * * *

2475 Mr. Booth. If the Commission desires to give us an opportunity to file briefs and will give us a reasonable time to file a brief we will take advantage of that opportunity; however, I should like to make it clear that, considering the basic issues in which the Price Administrator and the Economic Stabilization Director are interested, that the limited stage of the record, limited status of the record, and the denial of our right to demonstrate on the basis of the exist ng financial conditions and earnings of the company that no rate increase whatsoever is justified, that we would have very little use in presenting a brief to the Commission because of the denial so far of the right to open up the record.

TEXT MATERIAL OF EXHIBIT F-142

(Including Certain Charts)

REPORT OF COMMITTEE ON FARE STRUCTURES

To the American Transit Operating Association:

GENTLEMEN: The Committee on Fare Structures presents herewith its report for the year 1937.

The work of the Committee this year, part of which is a continuation of last year's work, has been subdivided as follows:

1. Completion of the study begun last year of the effect on the average rate of fare of the differential between cash and token rates and also of the minimum investment in tokens.
2. A study of the more recent trends in fare experiments and the reporting of any significant developments.
3. A study of present day transfer privileges and the reporting of any interesting or novel practices found which have general application.
4. Report of the results of the investigation being made by Charles A. Stephenson, of Association headquarters, on the effect of the various factors that influence riding habit.

PROGRESS REPORT

1. Cash and Token Rates.

A preliminary report on cash and token rates was prepared last year, but its publication was withheld pending further study by your Committee. The report is now completed and is submitted in final form as Appendix A.

2. Recent Fare Trends.

A series of reports covering present day fare practices on various properties and the experience with those rates of fare have been prepared by individual members of the Committee. These reports deal with the following subjects:

Pass rate of fare structure.
Cash and ticket rates.
Permit rate of fare structure.
Promotional or special rates.
Fare practices where more than one type of transit vehicle is operated or where one type has replaced another.
Publicity methods used in connection with various fare structures.

Factors now existing that will influence future fare structure policies.

The foregoing series of reports contain much information of interest and value. Because of their volume and the fact that the subjects are so diversified and, therefore, difficult to combine in a composite report, it was not considered feasible to publish them. Copies of each are available to member companies on application to Association headquarters.

3. Transfers.

Your Committee prepared a report on the transfer privileges in effect on a number of the larger properties which discloses a number of interesting practices, many of which are closely related to special local conditions. The complete report, together with samples of transfers used by a number of companies, is available to member companies upon request to Association headquarters, and is not included herein.

4. Analysis of Factors Affecting Riding Habit.

A most interesting investigation has been made by Charles A. Stephenson, statistician of the Association staff, applying the method of multiple correlation analysis to the problem of determining separately the effects of various major factors which cause variations in transit riding habit. This method was applied to an analysis of the riding habit on one of the large transit properties in this country, and although the results of this particular study are applicable only to the conditions existing in that city and are academic in that they deal only with riding habit—eliminating consideration of either earnings at various fare levels or costs to provide various standards of service—the method of analysis seems to offer broad possibilities for the analysis of the transit situation in a given community to the end of providing a more scientific guide than has heretofore been available in fitting transit service and rates to changing conditions in a given community. The report of this study is not yet available but it is hoped that it can be put in final form at an early date and made available to member companies.

CONCLUSIONS

Your Committee believes that the report contained herein on cash and token fares (Appendix A) is complete and final.

Your Committee believes also that the results of further investigations now under way by Mr. Stephenson, intended to disclose the fare structure and standard of service on the

property under consideration which will result in the greatest use of the service and maximum net earnings, will, when completed, be of great significance and value to the transit industry. In the meantime, his analysis of riding habit trends when made available is commended to the attention of the industry as a unique piece of work that, in itself discloses highly significant relationships and indicates the possibilities of applying the multiple correlation analysis method to the study of transit economics and operation.

RECOMMENDATIONS

1. The Committee recommends that at as early a date as possible a study be made similar to the one contained in Appendix A, on cash and token rates, but covering properties which have various forms of passes in addition to cash and token rates.

2. That Association headquarters arrange to complete and make available to member companies at as early a date as possible, the results of Mr. Stephenson's studies, referred to in this report.

Respectfully submitted.

C. M. Ballou, Wm. B. Bennett, C. S. Burlingham, F. L. Butler, B. W. Campbell, William R. Castle, C. H. Dahl, H. L. Eberts, Ernest M. Flint, C. H. Fosgard, John F. Gallagher, C. W. Gifford, Adrian Hughes, Wm. M. B. Lord, I. O. Mall, John V. McKinney, S. E. Mason, Joe R. Ong, H. C. Patten, W. S. Rainville, Jr., Richard Sachse, C. C. Schaefer, L. F. Seybold, J. V. Sullivan, E. A. Tuson, H. E. Weyman, Elton S. Wilde, E. F. Malz, Vice Chairman, Geo. E. Owen, Chairman.

Committee on Fare Structures.

Appendix A—Cash and Token Rates

A study of the effect on Average Rate of Fare resulting from various differentials between cash and token rates and also from the minimum required investment in tokens.

By Chas. A. Stephenson and Joe R. Ong

The consideration of cash and token rates is only one of several factors involved in the study of Fare Structures but